

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

KANDIS L. GRAY)	
Claimant)	
VS.)	
)	Docket No. 261,974
STARKEY, INC.)	
Respondent)	
AND)	
)	
KS EMPLOYERS' WORK COMP FUND)	
Insurance Carrier)	

ORDER

Claimant appeals from a preliminary hearing Order entered by Administrative Law Judge Jon L. Frobish on March 20, 2002.

Issues

The Administrative Law Judge (ALJ) denied claimant's request for a change of authorized treating physician, payment of certain unauthorized medical expenses as authorized medical and approval of another surgical procedure for her knee. Claimant's Notice of Appeal and the Appeal Brief on Behalf of Claimant state the issues as the termination of temporary total disability compensation and necessary medical care. There is no issue concerning the compensability of the claim.

Findings of Fact and Conclusions of Law

After reviewing the record and considering the arguments, the Appeals Board (Board) concludes it does not have jurisdiction at this point in the proceedings to determine the issues raised, and the appeal should be dismissed.

The Board concludes that the appeal does not raise a jurisdictional issue. K.S.A. 44-534a lists jurisdictional issues. Whether claimant is or is not temporarily totally disabled and whether or not certain medical treatment or treatment providers should be authorized are not among the issues listed. Where other jurisdictional prerequisites are met, including notice, timely written claim, and accident arising out of and in the course of employment, the ALJ has jurisdiction to determine whether the claimant is or is not temporarily disabled and whether certain medical treatment is necessary. The ALJ's decision on these questions are not subject to review at this stage of the proceedings.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the appeal of the Order entered by Administrative Law Judge Jon L. Frobish on March 20, 2002, should be, and the same is hereby, dismissed.

IT IS SO ORDERED.

Dated this _____ day of July 2002.

BOARD MEMBER

c: Stephen J. Jones, Attorney for Claimant
Edward D. Heath, Jr., Attorney for Respondent and Insurance Carrier
Jon L. Frobish, Administrative Law Judge
Philip S. Harness, Workers Compensation Director